

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAMES BELLAMY,

Plaintiff,

-v-

9:21-CV-251

DR. CARL KOENIGSMANN *et al.*,

Defendants.

APPEARANCES:

OF COUNSEL:

JAMES BELLAMY

Plaintiff, Pro Se

17-A-2901

Shawangunk Correctional Facility

P.O. Box 700

Walkill, NY 12589

HON. LETITIA JAMES

New York State Attorney General

Attorneys for Defendants

The Capitol

Albany, NY 12224

STEVE NGUYEN, ESQ.

Ass't Attorney General

DAVID N. HURD

United States District Judge

ORDER ON REPORT & RECOMMENDATION

On July 21, 2020, *pro se* plaintiff James Bellamy (“Bellamy”), then an inmate in the custody of the New York State Department of Corrections and Community Supervision (“DOCCS”), filed this 42 U.S.C. § 1983 action in the

Western District of New York alleging that corrections officials and others violated his civil rights. Dkt. No. 1. Along with his complaint, plaintiff also sought leave to proceed *in forma pauperis* (“IFP Application”). Dkt. No. 2.

On March 3, 2021, U.S. District Judge Charles Siragusa granted plaintiff’s IFP Application, conducted an initial review of the complaint, severed plaintiff’s claims arising out of alleged events at Clinton Correctional Facility (“Clinton C.F.”) and Great Meadow Correctional Facility (“Great Meadow C.F.”), and transferred those claims to this judicial district. Dkt. No. 11. After plaintiff’s complaint was accepted for filing, Dkt. No. 13, he submitted an amended complaint, Dkt. No. 15.

On July 1, 2021, this Court reviewed the sufficiency of plaintiff’s amended complaint, dismissed several of his claims, and sent the parties to discovery on plaintiff’s: (1) § 1983 Eighth Amendment deliberate-medical-indifference claims against defendants Koenigsmann, Devlin-Varin, Johnson, and Serhan; and (2) Americans with Disabilities Act (“ADA”) claims against defendants DOCCS, John Doe, Washington, and Serhan. Dkt. No. 16.

Defendants answered, Dkt. No. 25, and the parties completed a period of discovery, Dkt. No. 31. Thereafter, defendants moved under Federal Rule of Civil Procedure (“Rule”) 56 for summary judgment on plaintiff’s remaining claims. Dkt. No. 35. Plaintiff failed to oppose, and the deadline in which to do so has long expired. *See id.*

On May 22, 2023, U.S. Magistrate Judge Thérèse Wiley Dancks advised by Report & Recommendation (“R&R”) that defendants’ motion be granted and plaintiff’s amended complaint be dismissed. Dkt. No. 37. At that time, Judge Dancks also reminded plaintiff of his continuing obligation to advise the Court of any changes in his mailing address. *Id.*

Plaintiff has not filed objections. Dkt. No. 37. The time period in which to do so has expired. *See id.* Upon review for clear error, the R&R is accepted and will be adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

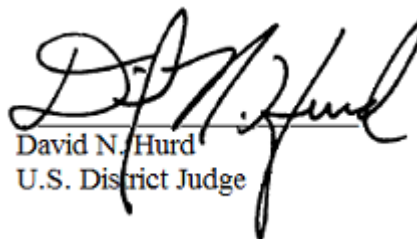
ORDERED that

1. The Report & Recommendation is ACCEPTED;
2. Defendants’ motion for summary judgment is GRANTED; and
3. Plaintiff’s amended complaint is DISMISSED with prejudice.

The Clerk of the Court is directed to terminate the pending motion, enter a judgment accordingly, and close the file.

IT IS SO ORDERED.

Dated: June 13, 2023
Utica, New York.


David N. Hurd
U.S. District Judge